

Appl. No. : 10/017,920  
Filed : December 11, 2001

REMARKS

In response to the Office Action mailed January 27, 2003, Applicant respectfully requests the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 1-19 remain pending. Claims 1, 7 and 12 have been amended.

The amended claims are shown on a separate set of pages attached hereto and entitled VERSION WITH MARKINGS TO SHOW CHANGES MADE, which follows the signature page of this Amendment. On this set of pages, the insertions are double underlined while the ~~deletions are struck through~~.

In the Office Action mailed on January 27, 2003, the Examiner rejected Claims 1, 3, 4-5, 7, 9-10 and 12-14 under 35 U.S.C. § 102(e) as being anticipated by Portney, USPN 6,179,058 (hereinafter, "Portney") and rejected Claims 2, 6, 8 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Portney. The Examiner further rejected Claims 1, 4, 6, 7, 9 and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over Turley, USPN 4,892,543 (hereinafter "Turley").

Rejections Over Prior Art

The Examiner rejected Claims 1, 3, 4-5, 7, 9-10 and 12-14 under 35 U.S.C. § 102(e) as being anticipated by Portney, and rejected Claims 2, 6, 8 and 11 under 35 U.S.C. § 103(a) as being unpatentable over Portney. The Examiner further rejected Claims 1, 4, 6, 7, 9 and 11-14 under 35 U.S.C. § 103(a) as being unpatentable over Turley.

Applicant has amended independent Claims 1 and 7, thereby mooting the Examiner's rejections over the prior art. For example, Claim 1 now recites:

1. (AMENDED) An accommodating intraocular lens for implantation in an eye having an optical axis, said lens comprising:
  - an anterior portion comprised of a viewing element, said anterior viewing element comprised of an optic having a refractive portion with a refractive power of less than 55 diopters;
  - a posterior portion comprised of a viewing element;
  - said lens having an optical axis which is adapted to be substantially coincident with the optical axis of the eye upon implantation of said lens;
  - said posterior viewing element comprising an optic arranged substantially coaxially with said anterior optic on said optical axis of said lens, said posterior optic having a larger diameter than said refractive portion of said anterior optic, said posterior optic comprising a peripheral portion having positive refractive power and extending radially away from said optical axis of said lens beyond the periphery of said refractive portion of said anterior optic, so that at least a portion of the light rays incident upon the posterior optic can bypass said refractive portion of said anterior optic;

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wherein said anterior optic and said posterior optic are configured to move relative to each other along said optical axis of said lens between an accommodated state and an unaccommodated state in response to force on said intraocular lens by the ciliary muscle of the eye, said anterior optic and said posterior optic being separated when in the accommodated state.

Portney fails to teach or suggest the combination of features recited in amended Claim 1, including, for example, those features relating to relatively moveable optics. Portney instead teaches a lens system with a primary IOL 62 to which is attached a secondary IOL 64; upon attachment, the primary and secondary IOLs 62, 64 are immovable with respect to each other. See Portney at Figs. 3-4, 9a-9d.

Turley also fails to teach or suggest the lens recited in amended Claim 1. For example, the optics of the claimed lens are separated when in the accommodated state. In contrast, Turley's lens 40 includes first and second optical components 42, 44 which contact each other when the lens 40 is in the accommodated state. See Turley at Fig. 6; col. 4, ll. 39-54.

For these reasons, Applicant respectfully submits that Claim 1 is in condition for allowance over the prior art of record. Claim 7 has also been amended to emphasize relative movement and separation of the optics, utilizing a somewhat different combination of limitations than Claim 1. Applicant further submits that independent Claim 7 is also in condition for allowance over the prior art.

#### Dependent Claims/New Claims

In light of the preceding, Applicant respectfully submits that dependent Claims 2-6 and 8-14 are also allowable over the prior art of record, by virtue of their dependence from allowable base claims, as well as their recitation of novel and unobvious combinations of features and/or acts. New Claims 15-19 are presented herein and are also believed to be allowable over the prior art of record.

#### Second Supplemental Information Disclosure Statement

Applicant notes the Examiner's comments regarding the Information Disclosure Statement ("IDS") filed on November 4, 2002. To address the Examiner's concerns Applicant submits herewith a Second Supplemental IDS containing all of the references of the November 4 IDS, as well as some additional references.

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Conclusion

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Applicant respectfully traverses each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present application, and without prejudice to assertion, in the future, of claims on the subject matter affected thereby. Any arguments in support of patentability and based on a portion of a claim should not be taken as founding patentability solely on the portion in question; rather, it is the combination of features or acts recited in a claim which distinguishes it over the prior art.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Mark J. Kertz at (949) 721-6318 to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: April 28, 2003

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**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE CLAIMS:**

Claims 1, 7 and 12 have been amended as follows:

1. (AMENDED) An accommodating intraocular lens for implantation in an eye having an optical axis, said lens comprising:

an anterior portion comprised of a viewing element, said anterior viewing element comprised of an optic having a refractive portion with a refractive power of less than 55 diopters;

a posterior portion comprised of a viewing element;

said lens having an optical axis which is adapted to be substantially coincident with the optical axis of the eye upon implantation of said lens;

said posterior viewing element comprising an optic arranged substantially coaxially with said anterior optic on said optical axis of said lens, said posterior optic having a larger diameter than said refractive portion of said anterior optic, said posterior optic comprising a peripheral portion having positive refractive power and extending radially away from said optical axis of said lens beyond the periphery of said refractive portion of said anterior optic, so that at least a portion of the light rays incident upon the posterior optic can bypass said refractive portion of said anterior optic;

wherein said anterior optic and said posterior optic are configured to move relative to each other along said optical axis of said lens between an accommodated state and an unaccommodated state in response to force on said intraocular lens by the ciliary muscle of the eye, said anterior optic and said posterior optic being separated when in the accommodated state.

7. (AMENDED) An accommodating intraocular lens for implantation in an eye having an optical axis, said lens comprising:

an anterior portion comprised of a viewing element, said anterior viewing element comprised of an optic having a refractive power of less than 55 diopters;

a posterior portion comprised of a viewing element;

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said lens having an optical axis which is adapted to be substantially coincident with the optical axis of the eye upon implantation of said lens;

said posterior viewing element comprising an optic arranged substantially coaxially with said anterior optic on said optical axis of said lens, said posterior optic having a larger diameter than said anterior optic, said posterior optic comprising a peripheral portion having positive refractive power and extending radially away from said optical axis of said lens beyond the periphery of said anterior optic, so that at least a portion of the light rays incident upon the posterior optic can bypass said anterior optic;

wherein said anterior portion and said posterior portion are configured to move relative to each other along said optical axis of said lens between an accommodated state and an unaccommodated state in response to force on said intraocular lens by the ciliary muscle of the eye, said anterior optic and said posterior optic being separated by a greater distance in the accommodated state than in the unaccommodated state.

12. (AMENDED) The lens of Claim 1, wherein at least one of said viewing elements is a removable optic.

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